

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Order of Restitution

v.

KENNETH WYNDER, JR.,

S1 20 Cr. 470 (PKC)

Upon the application of the United States of America, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, Eli J. Mark, Assistant United States Attorney, of counsel; the presentence investigation report, dated August 21, 2023; the defendant's conviction, following a jury trial, of Counts One through Seven of the Superseding Indictment, S1 20 Cr. 470 (PKC) (the "Indictment "); and all other proceedings in this case, it is hereby ORDERED that:

1. Amount of Restitution

KENNETH WYNDER, JR., the defendant, shall pay restitution in the total amount of \$838,683.62, pursuant to 18 U.S.C. §§ 3663 and 3663A; to the victims of the offenses charged in Counts One through Seven. The names, addresses, and specific amounts owed to each victim are set forth in the Schedule of Victims, to be provided by the Government as Schedule A. Upon advice by the United States Attorney's Office of a change of address of a victim, the Clerk of Court is authorized to send payments to the new address without further order of this Court.

A. Joint and Several Liability

The restitution in this case consists of three portions. As to the first portion, in the amount of \$529,000, arising from the defendant's conviction of Counts One and Two, such restitution is joint and several with co-defendant Andrew Brown. As to the second portion, in the amount of

\$116,033.03, arising from the defendant's conviction on Count Three, such restitution is joint and several with co-defendant Steven Whittick. As to the third portion, in the amount of \$193,650.59, arising from the defendant's conviction on Counts Four through Seven, such restitution is not joint and several with other defendants or with others not named herein. The defendant's liability to pay restitution that is joint and several shall continue unabated until either the defendant has paid the full amount of restitution ordered herein, or every victim has recovered the total amount of each loss from the restitution paid by the defendant and all co-defendants ordered to pay the same victims.

B. Apportionment Among Victims

Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid. Restitution in the amount of \$529,000, arising from the convictions on Counts One and Two, shall be paid to the victim(s) identified in the Schedule of Victims, as set forth in Schedule A, on a pro rata basis, whereby each payment shall be distributed proportionally to each victim based upon the amount of loss for each victim, as set forth in Schedule A. The remaining restitution in the amount of \$309,683.62, arising from the convictions on Counts Three through Seven, shall be paid to the Internal Revenue Service ("IRS"), as set forth below.

2. Schedule of Payments

Pursuant to 18 U.S.C. § 3664(f)(2), in consideration of the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled; projected earnings and other income of the defendant; and any financial obligations of the defendant; including obligations to dependents, the defendant shall pay restitution in the manner and according to the schedule that follows:

In the interest of justice, restitution will be payable in installments pursuant to 18 U.S.C. § 3572(d)(1) and (2). The defendant will commence monthly installment payments of least

10% percent of the defendant's gross income, payable on the 15th of each month, immediately upon entry of this judgment or upon the defendant's release from prison if the defendant is sentenced to a term of incarceration. While serving any term of imprisonment, the defendant shall make installment payments toward restitution and may do so through the Bureau of Prisons' (BOP) Inmate Financial Responsibility Plan (IFRP). Any unpaid amount remaining upon release from prison will be in installments of at least 10% percent of the defendant's gross income on the 15th of each month. This schedule is without prejudice to the Government taking enforcement actions, pursuant to 18 U.S.C. § 3613, to the extent warranted.

3. Payment Instructions

The defendant shall make restitution payments by certified check, money order, or online. Instructions for online criminal debt payments are available on the Clerk of Court's website at <https://nysd.uscourts.gov/payment-information#PaymentofCriminalDebt>. Checks and money orders shall be made payable to the "SDNY Clerk of Court" and mailed or delivered to: United States Courthouse, 500 Pearl Street, New York, New York 10007 - Attention: Cashier, as required by 18 U.S.C. § 3611. The defendant shall write his name and the docket number of this case on each check or money order.

Because one of the victims is the Internal Revenue Service ("IRS"), the Clerk's Office shall forward all restitution payments for the IRS to the below address within 30 days of receiving payments for the IRS from the defendant:

IRS - RACS
Attn: Mail Stop 6261, Restitution
333 W. Pershing Ave.
Kansas City, MO 64108

4. Change in Circumstances

The defendant shall notify, within 30 days, the Clerk of Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney's Office, 86 Chambers Street, 3rd Floor, New York, New York 10007 (Attn: Financial Litigation Program) of (1) any change of the defendant's name, residence, or mailing address or (2) any material change in the defendant's financial resources that affects the defendant's ability to pay restitution in accordance with 18 U.S.C. § 3664(k).

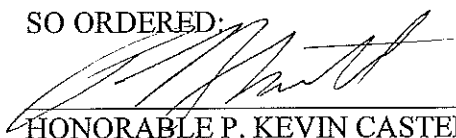
5. Term of Liability

The defendant's liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after the defendant's release from imprisonment, as provided in 18 U.S.C. § 3613(b). Subject to the time limitations in the preceding sentence, in the event of the death of the defendant, the defendant's estate will be held responsible for any unpaid balance of the restitution amount, and any lien filed pursuant to 18 U.S.C. § 3613(c) shall continue until the estate receives a written release of that liability.

6. Sealing

Consistent with 18 U.S.C. §§3771(a)(8) & 3664(d)(4) and Federal Rule of Criminal Procedure 49.1, to protect the privacy interests of victim(s), the Schedule of Victims, to be provided by the Government as Schedule A, shall be filed under seal, except that copies may be retained and used by or disclosed to the listed victims, the Government, the investigating agency, the Clerk's Office, and the Probation Office, as needed to effect and enforce this Order, without further order of this Court.

SO ORDERED:



HONORABLE P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE

1-17-24
DATE